

1.1 **Minnesota Department of Human Services**

1.2 **Adopted Permanent Rules Relating to the Child Care Fund**

1.3 **3400.0020 DEFINITIONS.**

1.4 [For text of subps 1 to 10, see M.R.]

1.5 Subp. 10a. **Authorized hours.** "Authorized hours" means the number of hours in a  
1.6 service period, not to exceed the maximum hour limit established in Minnesota Statutes,  
1.7 section 119B.09, subdivision 6, that may be paid for child care for a child.

1.8 [For text of subps 11 to 18, see M.R.]

1.9 Subp. 18a. **DWP.** "DWP" means the diversionary work program established in  
1.10 Minnesota Statutes, section 256J.95.

1.11 [For text of subp 19, see M.R.]

1.12 Subp. 20. **Eligible relative caregiver.** "Eligible relative caregiver" means a person  
1.13 identified under Minnesota Statutes, section 256J.08, subdivision 11, (1) who is a caregiver  
1.14 of a child receiving a MFIP grant or (2) who is an MFIP participant and the caregiver of a  
1.15 child. After an eligible relative caregiver begins receiving child care assistance, status as  
1.16 an eligible relative caregiver continues through all child care assistance programs until  
1.17 there is a break in the eligible relative caregiver's eligibility for child care assistance.

1.18 [For text of subps 21 to 23, see M.R.]

1.19 Subp. 24. **Family copayment fee.** "Family copayment fee" means the parent fee  
1.20 the family must contribute as its share of child care costs as determined under Minnesota  
1.21 Statutes, section 119B.12.

1.22 [For text of subps 25 to 32, see M.R.]

1.23 Subp. 32a. [See repealer.]

1.24 [For text of subp 32b, see M.R.]

2.1 Subp. 33. **Overpayment.** "Overpayment" means the portion of a child care payment  
2.2 that is greater than the amount for which a recipient is eligible or greater than the amount a  
2.3 provider should have received.

2.4 [For text of subps 34 to 38a, see M.R.]

2.5 Subp. 38b. **Scheduled hours.** "Scheduled hours" means the specific days and  
2.6 hours during a service period that a child will attend child care as determined by the  
2.7 child care worker, the parent, and the provider based on the parents' verified eligible  
2.8 activities schedules, the child's school schedule, and any other factors relevant to the  
2.9 family's child care needs.

2.10 Subp. 39. **State median income.** "State median income" means the state's annual  
2.11 median income for a family of three, adjusted for family size, developed by the Bureau of  
2.12 Census and published annually by the United States Department of Health and Human  
2.13 Services in the Federal Register.

2.14 Subp. 40. **Student.** "Student" means an individual enrolled in an educational  
2.15 program as defined in Minnesota Statutes, section 119B.011, subdivision 11. A non-MFIP  
2.16 student is a full-time student if the student is defined by the student's educational  
2.17 institution as a full-time student. A non-MFIP student is a part-time student if the student  
2.18 is defined by the student's educational institution as a part-time student. A MFIP student is  
2.19 a student who is in compliance with the education or training requirements in the student's  
2.20 employment plan.

2.21 [For text of subps 40a to 44, see M.R.]

## 2.22 **3400.0035 APPLICATION PROCEDURE.**

2.23 Subpart 1. **Response to informational requests.** When a family asks for information  
2.24 about child care assistance, the administering agency must give the family information  
2.25 supplied by the department regarding the availability of federal and state child and

3.1 dependent care tax credits; federal earned income tax credits; Minnesota working family  
3.2 credits; early childhood family education, school readiness, and Head Start programs;  
3.3 early childhood screening; MinnesotaCare; child care resource and referral services; other  
3.4 programs with services for young children and families; and the postsecondary child care  
3.5 grant program established in Minnesota Statutes, section 136A.125. The administering  
3.6 agency also must inform the family of the following items:

3.7 [For text of items A to J, see M.R.]

3.8 Subp. 2. **Application procedure.** An administering agency must follow the  
3.9 application procedures in items A and B.

3.10 [For text of item A, see M.R.]

3.11 B. If a family requests child care assistance and funds are not available, the  
3.12 administering agency must inform the family of a waiting list, screen the family for  
3.13 potential eligibility, and place the family on the waiting list if they appear eligible. The  
3.14 administering agency must place the family on the waiting list in the highest priority for  
3.15 which the family is eligible. As child care funds become available, the administering  
3.16 agency must inform the family at the head of the waiting list and ask the family to  
3.17 complete an application.

3.18 [For text of item C, see M.R.]

3.19 [For text of subps 3 and 4, see M.R.]

3.20 Subp. 5. **Notice of approval.** If the administering agency approves the application,  
3.21 the administering agency must send the applicant a notice of approval of the application.  
3.22 The notice of approval must specify the information in items A to I:

3.23 [For text of items A to D, see M.R.]

3.24 E. except in cases where the license of a provider licensed by the state of  
3.25 Minnesota has been temporarily immediately suspended or where there is an imminent

4.1 risk of harm to the health, safety, or rights of a child in care with a legal nonlicensed  
4.2 provider, license exempt center, or a provider licensed by an entity other than the state of  
4.3 Minnesota, any change in provider must be reported to the county and the provider at least  
4.4 15 calendar days before the change occurs;

4.5 [For text of items F to I, see M.R.]

4.6 Subp. 6. **Notice to provider.** If the administering agency approves an application,  
4.7 the administering agency must send the family's authorized provider a notice containing  
4.8 only the following information: the family's name; the fact that the family's request for  
4.9 child care assistance has been approved; the hours of care authorized; the maximum rate  
4.10 that may be paid by the child care assistance program; the number of absent days that  
4.11 have been paid for the child for the year as of the date of the notice; and how payments  
4.12 will be made.

4.13 [For text of subps 7 to 9, see M.R.]

4.14 **3400.0040 GENERAL ELIGIBILITY REQUIREMENTS AND ASSISTANCE**  
4.15 **STANDARDS TO BE MET BY ALL APPLICANTS AND PARTICIPANTS.**

4.16 [For text of subps 1 and 2, see M.R.]

4.17 Subp. 3. **Documentation of eligibility information.**

4.18 A. An applicant for child care assistance must document the:

4.19 [For text of subitems (1) to (5), see M.R.]

4.20 (6) work, education, or training activity status for all applicants as defined  
4.21 in Minnesota Statutes, section 119B.011, subdivision 2.

4.22 [For text of item B, see M.R.]

4.23 C. The county must determine an applicant's eligibility for child care assistance  
4.24 at the time of application. The county must redetermine eligibility according to part  
4.25 3400.0180.

5.1 Subp. 4. **Participant reporting responsibilities.** A participant must meet the  
5.2 reporting requirements in items A and B. A participant may report a change in person, by  
5.3 telephone, by facsimile, or by mail, including electronic mail.

5.4 [For text of item A, see M.R.]

5.5 B. Except in cases where the license of a provider licensed by the state of  
5.6 Minnesota has been temporarily immediately suspended or where there is an imminent  
5.7 risk of harm to the health, safety, or rights of a child in care with a legal, nonlicensed  
5.8 provider, license exempt center, or provider licensed by an entity other than the state of  
5.9 Minnesota, a participant must notify the county and the provider of the intent to change  
5.10 providers at least 15 calendar days before changing providers.

5.11 Subp. 5. **Employment, education, and training requirements.** In a family with  
5.12 a single parent, or unmarried legal guardian or eligible relative caregiver, the applicant  
5.13 or participant must meet employment, education, or training requirements and other  
5.14 eligibility requirements in this part and in part 3400.0060, 3400.0080, or 3400.0090 for  
5.15 the child care assistance program for which the family is applying or in which the family  
5.16 is participating.

5.17 In a family with more than one parent or any combination of parents, stepparents,  
5.18 legal guardians, and spouses, and eligible relative caregivers and spouses, at least one  
5.19 parent, legal guardian, eligible relative caregiver, or spouse must meet employment,  
5.20 education, or training requirements and other eligibility requirements in this part and in  
5.21 part 3400.0060, 3400.0080, or 3400.0090 for the child care assistance program for which  
5.22 the family is applying or participating in. The other parents, legal guardians, eligible  
5.23 relative caregivers, or spouses must:

5.24 [For text of items A and B, see M.R.]

5.25 [For text of subps 5a to 6b, see M.R.]

6.1 Subp. 6c. **Date of eligibility for assistance.** The date of eligibility for child care  
6.2 assistance under parts 3400.0060 and 3400.0080 must be determined according to  
6.3 Minnesota Statutes, section 119B.09, subdivision 7. The date of eligibility for child care  
6.4 assistance under part 3400.0090 is the date the family's MFIP or DWP case was closed.

6.5 Subp. 7. **Maximum biweekly child care assistance.** A family may not receive more  
6.6 than 120 hours of child care assistance per child every two weeks.

6.7 Subp. 8. **Child care assistance during employment.**

6.8 [For text of items A and B, see M.R.]

6.9 C. When a participant does not work by the hour and is not paid an hourly wage,  
6.10 the participant's earned income over a given period must be divided by the minimum  
6.11 wage to determine whether the participant has met the requirement to average at least 20  
6.12 hours of work per week at minimum wage.

6.13 D. Child care assistance during employment shall be authorized for the number  
6.14 of hours scheduled to be worked, including break and meal time during the employment,  
6.15 and up to two hours per day for travel time.

6.16 Subp. 9. **Child care assistance in support of employment.** A county must  
6.17 authorize child care assistance in support of employment for nonwork hours when the  
6.18 following conditions exist:

6.19 [For text of items A and B, see M.R.]

6.20 Subp. 10. **Child care assistance during education or training.** Counties shall  
6.21 provide child care assistance to students eligible under part 3400.0060 or 3400.0080  
6.22 and enrolled in county-approved education or training programs or employment plans  
6.23 according to items A to C.

7.1 A. Counties must authorize child care for full-time students for the days of class  
7.2 and on nonclass days, if needed for study, as determined by the county, not to exceed the  
7.3 maximum biweekly child care allowed.

7.4 B. Counties must authorize child care for part-time students ~~child care~~ as  
7.5 needed for:

7.6 (1) all hours of actual class time and credit hours for independent study  
7.7 and internships;

7.8 (2) time periods between nonconsecutive classes;

7.9 (3) up to two hours per day for travel time; and

7.10 (4) two hours per week per credit hour for postsecondary students for study  
7.11 and academic appointments.

7.12 When a part-time student has more than one hour between classes on any one day,  
7.13 the study and academic appointment time authorized under subitem (4) shall be reduced  
7.14 by the number of hours between classes.

7.15 [For text of item C, see M.R.]

7.16 Subp. 11. **Child care assistance during employment and education or training.**

7.17 Employed students, including students on work study programs, are eligible for child care  
7.18 assistance during employment and education or training. Counties shall use the standards  
7.19 in subparts 8 and 10 to determine the amount of child care assistance. When full-time  
7.20 students request child care for employment, the employment hours must average at least  
7.21 ten hours per week at minimum wage. For purposes of determining whether the ten hours  
7.22 at minimum wage requirement in this subpart applies to a student, a full-time student  
7.23 retains full-time status during school breaks, including summers, if the student is expected  
7.24 to return to school full time after the break. Students eligible for child care assistance under  
7.25 part 3400.0080 are exempt from the ten hours per week at minimum wage requirement if

8.1 they have an approved employment plan that allows fewer work hours or a lower wage.  
8.2 For purposes of determining whether the ten hours at minimum wage requirement in this  
8.3 subpart has been met, work-study hours and income must be counted as employment.

8.4 Subp. 12. **Acceptable course of study.** An acceptable course of study for a student  
8.5 eligible under part 3400.0060 is an education or training program approved by the county  
8.6 that will reasonably lead to full-time employment opportunities as determined by the  
8.7 county. An acceptable course of study for a student eligible under part 3400.0080 is an  
8.8 approved education or training program described in the MFIP participant's employment  
8.9 plan.

8.10 [For text of subp 13, see M.R.]

8.11 Subp. 14. **Maximum education or training under child care fund.** The maximum  
8.12 length of time a student is eligible for child care assistance under the child care fund for  
8.13 education or training is described in items A to D.

8.14 [For text of items A and B, see M.R.]

8.15 C. A student eligible under part 3400.0060 who has completed or who has  
8.16 participated in but failed to complete an education or training program under the child care  
8.17 fund may receive child care assistance for a second education or training program if:

8.18 (1) the new education or training program is approved by the county; and

8.19 (2) the county expects that completing the program will lead to full-time  
8.20 employment.

8.21 D. A student eligible under part 3400.0060 with a baccalaureate degree may  
8.22 only obtain child care assistance for education or training if the education or training is for  
8.23 continuing education units, certification, or coursework that is related to the baccalaureate  
8.24 degree or current employment and that is necessary to update credentials to obtain or  
8.25 retain employment.



9.1 [For text of subps 15 to 17, see M.R.]

9.2 Subp. 18. **Suspension.** Counties must suspend, and may not terminate, a family's  
9.3 child care assistance for up to one continuous year if there are temporary breaks when  
9.4 child care assistance is not needed or the family does not have an authorized provider but  
9.5 the family remains eligible for child care assistance.

9.6 **3400.0060 BASIC SLIDING FEE PROGRAM.**

9.7 [For text of subps 1 to 4, see M.R.]

9.8 Subp. 5. **Families eligible for assistance under the basic sliding fee program.** To  
9.9 the extent of available allocations, a family is eligible for child care assistance under  
9.10 the basic sliding fee program if:

- 9.11 A. the applicant meets eligibility requirements under part 3400.0040;
- 9.12 B. the applicant is not a MFIP or DWP participant; and
- 9.13 C. the family meets the income eligibility requirements specified in Minnesota  
9.14 Statutes, section 119B.09.

9.15 Subp. 6. **Basic sliding fee program waiting lists.** Counties must keep a written  
9.16 record of families who have requested child care assistance. When a family requests  
9.17 information about child care assistance, the county shall perform a preliminary  
9.18 determination of eligibility. If it appears that a family is or will be eligible for child care  
9.19 assistance and funds are not immediately available, the family shall be placed on a child  
9.20 care waiting list. The county must determine the highest priority group for which a family  
9.21 qualifies and must notify the family of this determination.

9.22 Families who inquire or apply while they are temporarily ineligible shall be placed  
9.23 on the waiting list if it appears they will be eligible for child care assistance. When a  
9.24 family advances to the top of the county's waiting list and is temporarily ineligible for  
9.25 child care assistance, the county shall leave the family at the top of the list according to

10.1 priority group and serve the applicant who is next on the waiting list unless a different  
10.2 procedure is provided in the county's child care fund plan.

10.3 [For text of subp 6a, see M.R.]

10.4 Subp. 7. **Waiting list; transfer of transition year families to the basic sliding**  
10.5 **fee program.**

10.6 [For text of items A to D, see M.R.]

10.7 E. When the transition year ends, the county shall move the transition year  
10.8 family into the basic sliding fee program. A transition year family that does not come to  
10.9 the top of the county's basic sliding fee program waiting list before completion of the  
10.10 transition year shall be moved into the basic sliding fee program as funding becomes  
10.11 available according to the priority under Minnesota Statutes, section 119B.03, subdivision  
10.12 4. Transition year extension child care may be used to support employment or a job  
10.13 search that meets the requirements of Minnesota Statutes, section 119B.10, for the time  
10.14 necessary for the family to be moved from the basic sliding fee waiting list into the basic  
10.15 sliding fee program.

10.16 [For text of subp 8, see M.R.]

10.17 Subp. 9. **County child care responsibility when family moves.**

10.18 A. When a family receiving child care assistance from the basic sliding fee  
10.19 program moves to a new county within Minnesota, the original county must continue to  
10.20 provide child care assistance for two full calendar months after the move if the family  
10.21 needs child care and remains eligible for the basic sliding fee program. The family is  
10.22 responsible for notifying the new county of residence within 60 days of moving and  
10.23 applying for basic sliding fee assistance in the new county. The limitation in Minnesota  
10.24 Statutes, section 119B.09, subdivision 1, paragraph (a), clause (2), regarding the family's  
10.25 household income at program entry does not apply when a family receiving assistance

11.1 moves to another county and timely applies under this item to continue receiving  
11.2 assistance in the new county.

11.3           B. If there is a waiting list for the basic sliding fee program in the receiving  
11.4 county when it assumes responsibility for the family, the receiving county must fund  
11.5 child care assistance for the family through the portability pool. Portability pool funding  
11.6 must continue for the lesser of six months or until the family is able to receive assistance  
11.7 under the receiving county's basic sliding fee program. The family must also be added to  
11.8 the basic sliding fee program waiting list according to portability pool priority group in  
11.9 the receiving county effective the date of the move. If the family reaches the top of the  
11.10 waiting list and funds become available before the six months have ended, the receiving  
11.11 county must immediately add the family to its basic sliding fee program. If basic sliding  
11.12 fee funds are not available when the six months has ended, services to the family must  
11.13 be terminated. The family must stay on the waiting list effective the date of the move. If  
11.14 funds become available after the family's child care assistance has been terminated due to  
11.15 the end of the portability pool period, the family must be treated as a new applicant and  
11.16 must have a household income that meets the income requirements in Minnesota Statutes,  
11.17 section 119B.09, subdivision 1, for program entry.

11.18                                      [For text of items C and D, see M.R.]

11.19           Subp. 10. **Continued eligibility under basic sliding fee program.** A county may  
11.20 not refuse continued child care assistance to a family receiving assistance under the basic  
11.21 sliding fee program when there is a change in the family's financial or household status  
11.22 provided that the family continues to meet the eligibility requirements in this part and the  
11.23 general eligibility requirements in part 3400.0040. Except for the job search time limit  
11.24 under Minnesota Statutes, section 119B.10, subdivision 1, paragraph (a), the education  
11.25 time limit in Minnesota Statutes, section 119B.07; and the time limit for the at-home infant

12.1 care program in Minnesota Statutes, section 119B.035, subdivision 4, counties may not set  
 12.2 a time limit for eligibility under the basic sliding fee program.

12.3 **3400.0080 MFIP CHILD CARE PROGRAM.**

12.4 ~~Subpart 1. [See repealer.]~~

12.5 Subpart 1. **Eligibility for MFIP child care program.** The following Persons  
 12.6 listed in Minnesota Statutes, section 119B.05, subdivision 1, are eligible for the MFIP  
 12.7 child care assistance program:

12.8 ~~A. MFIP caregivers who are participating in approved activities as required in~~  
 12.9 ~~their job search support or employment plans;~~

12.10 ~~B. MFIP caregivers who do not have approved job search support or~~  
 12.11 ~~employment plans but who meet the requirements of Minnesota Statutes, section 119B.10;~~

12.12 ~~C. MFIP caregivers who are participating in appeals, hearings, assessments, or~~  
 12.13 ~~orientations according to Minnesota Statutes, chapter 256J; and~~

12.14 ~~D. families who are participating in programs as required in tribal contracts~~  
 12.15 ~~under Minnesota Statutes, section 119B.02, subdivision 2, or 256.01, subdivision 2.~~

12.16 Subp. 1a. **Eligibility of sanctioned MFIP participant.** A MFIP participant eligible  
 12.17 for child care assistance who has been sanctioned under the MFIP program may receive  
 12.18 child care assistance:

12.19 A. for that portion of the participant's job search support or employment plan  
 12.20 which the participant is complying with according to Minnesota Statutes, chapter 256J; or

12.21 B. according to Minnesota Statutes, section 119B.05, subdivision 1, clause (1).

12.22 Subp. 1b. **Child care assistance for approved job search.** A MFIP participant who  
 12.23 has an approved job search support plan or whose employment plan includes job search

13.1 as an authorized activity is not limited to 240 hours of job search child care assistance  
13.2 in a calendar year.

13.3 [For text of subps 2 to 7, see M.R.]

13.4 Subp. 8. **County child care responsibility when a family moves to another**  
13.5 **county.** When a MFIP or DWP participant moves to a new county and the new county  
13.6 accepts responsibility for the participant's approved job search support or employment  
13.7 plan under Minnesota Statutes, section 256J.55, subdivision 3, the new county is  
13.8 responsible for providing child care assistance to the MFIP or DWP participant effective  
13.9 on the date that the county accepted responsibility for the plan. In all other cases, child  
13.10 care assistance must be provided according to Minnesota Statutes, section 256G.07, when  
13.11 a MFIP or DWP participant moves to a new county.

13.12 **3400.0090 TRANSITION YEAR CHILD CARE.**

13.13 Subpart 1. **Notice to family of eligibility.** The administering agency must notify  
13.14 a family, in writing, at the time the family's MFIP or DWP case closes of the family's  
13.15 potential eligibility for transition year child care. The notification must include  
13.16 information on how to establish eligibility for transition year child care and on the family's  
13.17 rights and responsibilities under the transition year child care program.

13.18 Subp. 2. **Eligibility.** Transition year child care assistance may only be used to  
13.19 support employment and job search related expenses. A family is eligible for transition  
13.20 year child care if the conditions in items A to D are met.

13.21 A. The family's MFIP or DWP case has closed.

13.22 B. At least one caregiver in the family received MFIP or DWP in at least three  
13.23 of the six months immediately preceding the month in which the family's MFIP or DWP  
13.24 case was closed.

14.1 C. The family meets the income eligibility requirements specified in Minnesota  
14.2 Statutes, section 119B.09, subdivision 1.

14.3 D. Transition year child care may be paid for the care of a child who would  
14.4 have been eligible to receive a MFIP grant, or for children who would have been eligible  
14.5 for MFIP, except for the child's receipt of SSI or Title IV-E foster care benefits.

14.6 Eligibility for transition year child care begins the first month after the family's  
14.7 MFIP or DWP case has closed and continues for 12 consecutive months. A family's  
14.8 temporary ineligibility for, suspension of, or failure to use child care assistance during  
14.9 the transition year does not suspend the transition year period. A former MFIP or DWP  
14.10 participant may apply for transition year child care any time during the transition year  
14.11 and, notwithstanding the application date, shall receive retroactive transition year child  
14.12 care assistance according to Minnesota Statutes, section 119B.09, subdivision 7. If a  
14.13 family was receiving child care assistance when the family's MFIP or DWP case closed,  
14.14 determination of eligibility for transition year child care assistance must be treated as a  
14.15 redetermination rather than a new application.

14.16 Subp. 3. **Loss of transition year child care eligibility.** A family in which all  
14.17 caregivers have been disqualified from receiving MFIP or DWP due to fraud is not eligible  
14.18 for transition year child care assistance.

14.19 Subp. 4. **Reestablishment of MFIP or DWP eligibility during transition year**  
14.20 **period.** If a transition year family reopens its MFIP or DWP case during the transition  
14.21 year period and subsequently meets the conditions in subpart 2, the family qualifies for a  
14.22 new 12-month transition year period. If the family received MFIP or DWP for only one or  
14.23 two of the previous six months, but meets the requirements in subpart 2, items A, C, and  
14.24 D, the family is eligible for the remaining months of the transition year, treating the month  
14.25 or months on MFIP or DWP as a suspension of the child care benefit but not the transition

15.1 year period. To receive child care assistance while receiving MFIP or DWP, the family  
15.2 must meet the MFIP child care requirements under part 3400.0080.

15.3 [For text of subps 5 and 6, see M.R.]

15.4 Subp. 7. [See repealer.]

15.5 [For text of subps 8 and 9, see M.R.]

15.6 **3400.0100 FAMILY COPAYMENT FEE SCHEDULE.**

15.7 [For text of subps 1 and 2, see M.R.]

15.8 Subp. 2a. **Copayment fees to be prorated during start-up service period.**

15.9 Counties must prorate all copayment fees during the service period when the family first  
15.10 receives service based on the number of calendar days remaining in the service period.

15.11 [For text of subps 2b to 4, see M.R.]

15.12 Subp. 5. **Publication of fee schedule in State Register.** The department shall  
15.13 publish annually in the State Register the state median income for a family of three,  
15.14 adjusted for family size, and a fee schedule. This information must be published after the  
15.15 date the state median income is published in the Federal Register by the United States  
15.16 Department of Health and Human Services. The department shall also distribute a copy of  
15.17 the fee schedule and the updated estimate of state median income to each county. The  
15.18 updated fee schedule shall take effect on July 1 or on the first day of the first full quarter  
15.19 following publication of the state median income in the State Register if publication  
15.20 occurs after July 1.

15.21 **3400.0110 CHILD CARE ASSISTANCE PAYMENTS.**

15.22 Subpart 1. **Payment options.** Counties must monitor child care payments to ensure  
15.23 that the funds are used for child care.

15.24 [For text of subp 1a, see M.R.]

16.1 Subp. 2. **Authorization before payment of legal nonlicensed providers.** After a  
16.2 legal nonlicensed provider is authorized by the county, the county must pay the provider  
16.3 or parent retroactive to the date in item A, B, or C that occurred most recently:

16.4 [For text of items A to C, see M.R.]

16.5 Subp. 2a. **Provisional payment for legal nonlicensed providers.**

16.6 A. When a legal nonlicensed provider who has been provisionally authorized  
16.7 under Minnesota Statutes, section 119B.125, subdivision 5, does not receive final  
16.8 authorization by the county, the provisional authorization and payment must be terminated  
16.9 following notice to the provider as required under part 3400.0185 and Minnesota Statutes,  
16.10 section 119B.13, subdivision 5. The county must notify the family using the ineligible  
16.11 provider that the family must choose a new provider to continue receiving child care  
16.12 assistance. A provider's failure to receive final authorization does not cause payments  
16.13 made during the provisional authorization period to be overpayments.

16.14 B. If a family appeals the adverse determination of provider eligibility  
16.15 and, while the appeal is pending, continues to use the provider who failed to receive  
16.16 final authorization, payments made after the notice period are subject to recovery as  
16.17 overpayments.

16.18 Subp. 3. **County authorization of child care.** Within the limits set by this chapter  
16.19 and Minnesota Statutes, chapter 119B, the amount of child care authorized must reflect  
16.20 the child care needs of the family and minimize out-of-pocket child care costs to the  
16.21 family. The amount of child care authorized must be based on the parents' schedule  
16.22 of participation in authorized activities, the child's school schedule, the provider's  
16.23 availability, and any other factors that would affect the amount of care that the child needs.  
16.24 The county must pay the provider's full charge up to the applicable maximum rate for all  
16.25 hours of child care authorized and scheduled for the family. When more than 50 hours of  
16.26 child care assistance for one child are authorized with one provider in a week, the county



17.1 may reimburse the provider in an amount that exceeds the applicable maximum weekly  
17.2 rate, if the provider charges the same amount for more than 50 hours of care for a family  
17.3 not receiving child care assistance. A county must not authorize or pay for more than 120  
17.4 hours of child care assistance per child every two weeks. To convert child care paid on a  
17.5 full-day or weekly basis into hours to determine if payment exceeds 120 hours of child  
17.6 care assistance, counties must follow the standards in items A and B.

17.7 A. A full-day is equal to ten hours of child care.

17.8 B. A week is equal to 50 hours of child care.

17.9 Subp. 4. [See repealer.]

17.10 [For text of subps 4a to 6, see M.R.]

17.11 Subp. 7. **County payment policies and schedule.** A county may not require parents  
17.12 to pay providers in advance of receiving payments from the child care fund as a condition  
17.13 for receiving payments from the child care fund. The county shall make payments at least  
17.14 monthly. Providers must be sent the forms necessary to bill for payment on or before the  
17.15 beginning of the billing cycle if the county has received the information necessary for  
17.16 child care to be authorized before this date.

17.17 [For text of subp 8, see M.R.]

17.18 Subp. 9. **Payment during child absences and holidays.**

17.19 A. If a provider does not charge all families for days on which a child is absent  
17.20 from care, the child care assistance program must not pay that provider for days on which  
17.21 a child is absent from care.

17.22 B. If a provider charges all families for days on which a child is absent from  
17.23 care, the child care assistance program must pay that provider for child absent days  
17.24 according to Minnesota Statutes, section 119B.13, subdivision 7.

18.1 C. Provider charges for absent days in excess of the amount established by  
18.2 Minnesota Statutes, section 119B.13, subdivision 7, are the responsibility of the family  
18.3 receiving child care assistance.

18.4 D. A provider must be paid for holiday days according to Minnesota Statutes,  
18.5 section 119B.13, subdivision 7, paragraph (b). State or federal holidays are determined  
18.6 according to Minnesota Statutes, section 645.44, subdivision 5. A provider can be paid  
18.7 for a holiday day only if the provider meets the requirements in Minnesota Statutes,  
18.8 section 119B.13, subdivision 7, paragraph (b), the provider does not provide care on the  
18.9 holiday, and it is in the provider's policies to charge all families for the holiday. If care is  
18.10 available on the holiday, but the child is absent on that day, the day is an absent day. If a  
18.11 provider is closed on a cultural or religious holiday not identified in Minnesota Statutes,  
18.12 section 645.44, subdivision 5, a parent may substitute that holiday for one of the ten  
18.13 state and federal holidays identified in Minnesota Statutes, section 645.44, subdivision 5,  
18.14 if the parent gives notice of the substitution to the county before the holiday occurs or  
18.15 within ten days after the holiday.

18.16 E. The absent day provisions in this subpart and in Minnesota Statutes, section  
18.17 119B.13, subdivision 7, including the limits on paid absent days and holidays, apply to  
18.18 child care assistance payments for child care provided during notice periods.

18.19 [For text of subp 10, see M.R.]

18.20 Subp. 11. **Payment during notice periods.** Child care assistance payments for child  
18.21 care provided during notice periods are subject to all payment rules and limits identified  
18.22 under this part.

### 18.23 **3400.0120 ELIGIBLE PROVIDERS AND PROVIDER REQUIREMENTS.**

18.24 Subpart 1. **Eligible providers.** Providers who meet the definition of provider in  
18.25 Minnesota Statutes, section 119B.011, subdivision 19, are eligible for payment from  
18.26 the child care fund. Within the limitations specified in Minnesota Statutes, sections

19.1 119B.09, subdivision 5, and 119B.25, parents may choose child care providers that best  
19.2 meet the needs of their family. Parents may choose more than one provider. A county  
19.3 may not deny a parent eligible for child care assistance the use of a provider holding a  
19.4 valid child care license.

19.5 [For text of subp 1a, see M.R.]

19.6 Subp. 1b. [See repealer.]

19.7 Subp. 2. **Authorization of legal nonlicensed providers.**

19.8 A. A legal nonlicensed provider must be authorized by the county before the  
19.9 provider or parent may receive a payment under the child care fund. To be authorized by  
19.10 the county, a provider must provide the county with the following information:

19.11 (1) the provider's name, age, and address;

19.12 (2) the provider acknowledgment required by subpart 1a;

19.13 (3) an assurance that the provider is eligible to provide unlicensed care  
19.14 under Minnesota Statutes, section 245A.03, subdivision 2, paragraph (a);

19.15 (4) a release to permit information on substantiated parental complaints  
19.16 concerning the health and safety of children in the provider's care to be disclosed to the  
19.17 public according to Minnesota Statutes, chapter 13;

19.18 (5) an assurance that the provider is in compliance with state and local  
19.19 health ordinances and building and fire codes applicable to the premises where child  
19.20 care is provided; and

19.21 (6) an acknowledgment that the parent and the legal nonlicensed provider  
19.22 have reviewed the health and safety information provided by the county.

19.23 [For text of items B and C, see M.R.]

20.1 Subp. 2a. **Release for in-home providers.** To be authorized, an in-home provider  
20.2 must sign a release allowing the parent employing that provider to see information on the  
20.3 remittance advice about the amount of any funds being withheld from the payment for the  
20.4 provider and the reason for those withholdings.

20.5 [For text of subps 3 and 4, see M.R.]

20.6 Subp. 5. **Notice to county required when care has terminated.** When a provider  
20.7 knows that a family has ended care with the provider, the provider must notify the county  
20.8 that care has been terminated. When a provider believes that a family will be ending care  
20.9 with the provider, the provider must immediately notify the county of the date on which  
20.10 the provider believes the family will end care. A provider must also notify the county if a  
20.11 child or children have been absent for more than seven consecutive scheduled days.

20.12 **3400.0130 CHILD CARE PROVIDER RATES.**

20.13 Subpart 1. **Rate determination.** The commissioner shall determine the applicable  
20.14 maximum rate as described in Minnesota Statutes, section 119B.13. Any rate survey  
20.15 conducted by the commissioner shall include a survey of registration fees when it is usual  
20.16 and customary for a category of provider to charge registration fees.

20.17 Subp. 1a. **Maximum county child care assistance rate.** Except as provided in this  
20.18 part, the maximum rate that a county may pay for child care assistance is the provider's  
20.19 rate or the applicable maximum rate determined by the commissioner under Minnesota  
20.20 Statutes, section 119B.13, whichever is less. Except as provided in this part, if the  
20.21 provider's rate is more than the applicable maximum rate, the county may not pay more  
20.22 than the difference between the applicable maximum rate and the family's copayment fee.

20.23 Subp. 2. **Rate determination for license-exempt centers.** Rates paid to  
20.24 license-exempt centers as defined in Minnesota Statutes, section 245A.03, subdivision 2,  
20.25 must be the applicable maximum rate for licensed child care centers or the provider rate,  
20.26 whichever is less.

21.1 [For text of subps 2a and 3, see M.R.]

21.2 Subp. 3a. **Rate determination; children with special needs due to disability.**

21.3 When a parent or a provider asks the county for a special needs rate for an individual  
21.4 child with disabilities that exceeds the applicable maximum rate, the county must use the  
21.5 following process to determine whether a special needs rate is necessary and, if so, to  
21.6 establish the requested special needs rate. The county must:

21.7 [For text of items A to C, see M.R.]

21.8 [For text of subps 3b and 4, see M.R.]

21.9 Subp. 5. **Child care rate.** Child care payments shall be based on the applicable  
21.10 maximum rates in the county where care is provided when the care is provided in  
21.11 Minnesota. When child care is provided outside the state of Minnesota, the maximum rate  
21.12 must be based on the applicable maximum rate in the participant's county of residence. If  
21.13 a child remains in an age-based child care setting beyond the age at which the licensing  
21.14 laws would allow that child to move to a different age-based child care setting and (1) the  
21.15 child's age is within the range allowed by the licensing laws for that age-based child care  
21.16 setting, or (2) the child is in that age-based child care setting due to a licensing variance,  
21.17 the maximum rate paid for that child's care must be the rate for the age-based child care  
21.18 setting in which the child is located. A child is considered to be in the school-age rate  
21.19 category on the September 1 following the child's fifth birthday unless the parent informs  
21.20 the county that the child will not be starting school. All changes to provider rates shall be  
21.21 implemented on the Monday following the effective date of the rate change.

21.22 Subp. 5a. **Rates for in-home care.** When care is provided in the child's home,  
21.23 the applicable maximum rate must be based on the allowable rate for legal nonlicensed  
21.24 family child care.

21.25 [For text of subps 6 to 10, see M.R.]

22.1 **3400.0140 COUNTY RESPONSIBILITIES.**

22.2 [For text of subps 1 to 3, see M.R.]

22.3 Subp. 4. **Determination of providers eligible for payments.** The county's process  
22.4 for approving providers eligible for payments under the child care fund may not exceed  
22.5 30 calendar days, or 45 calendar days with the approval of the applicant, from the date  
22.6 the child care application is approved, the date the child care provider is selected by the  
22.7 applicant, or, the date the county received the results of the background investigation  
22.8 required by Minnesota Statutes, section 119B.125, subdivision 2, whichever is later.  
22.9 Reimbursement for child care expenses must be made according to the date of eligibility  
22.10 established in part 3400.0040, subpart 6c. If the county determines that a provider chosen  
22.11 by an applicant is not eligible to receive child care payments under the child care fund, the  
22.12 applicant may appeal the county's determination under part 3400.0230.

22.13 Subp. 5. **Additional information for legal nonlicensed providers.** The county  
22.14 shall provide each authorized legal nonlicensed family child care provider health and  
22.15 safety material supplied by the department and shall refer the provider to the child care  
22.16 resources and referral agency. The county must tell the provider that the county is required  
22.17 to keep a record of substantiated parental complaints concerning the health and safety of  
22.18 children in the care of legal nonlicensed providers and that, upon request, information  
22.19 governing substantiated complaints shall be released to the public as authorized under  
22.20 Minnesota Statutes, chapter 13.

22.21 Subp. 5a. [See repealer.]

22.22 Subp. 6. **Duties upon receipt of complaints against legal nonlicensed providers.**  
22.23 Within 24 hours of receiving a complaint concerning the health or safety of children under  
22.24 the care of a legal nonlicensed provider, a county must relay the complaint to:

22.25 A. the county's child protection agency if the complaint alleges child  
22.26 maltreatment as defined in Minnesota Statutes, section 626.556, subdivision 10e;

23.1 B. the county's public health agency if the complaint alleges a danger to public  
23.2 health due to communicable disease, unsafe water supply, sewage or waste disposal, or  
23.3 building structures;

23.4 C. local law enforcement if the complaint alleges criminal activity that may  
23.5 endanger the health or safety of children under care; or

23.6 D. other agencies with jurisdiction to investigate complaints relating to the  
23.7 health and safety of a child.

23.8 If a complaint is substantiated under item A, the county must keep a record of the  
23.9 substantiated complaint as provided in Minnesota Statutes, section 626.556. If a complaint  
23.10 is substantiated under items B to D, the county must keep a record of the substantiated  
23.11 complaint for three years. Upon request, information governing substantiated complaints  
23.12 shall be released to the public as authorized under Minnesota Statutes, chapter 13. Upon  
23.13 receiving notice of a substantiated complaint under items A to D, the county shall not  
23.14 make subsequent payments to that provider from the child care fund for child care services  
23.15 provided by that provider unless the conditions underlying the substantiated complaint  
23.16 have been corrected.

23.17 Subp. 7. **County contracts and designation of administering agency.** Counties  
23.18 may contract for the administration of all or part of the child care fund. The county shall  
23.19 designate the agency authorized to administer the child care fund in the county's child care  
23.20 fund plan. The county must describe in its child care fund plan how it will oversee the  
23.21 contractor's performance.

23.22 [For text of subps 8 to 18, see M.R.]

23.23 Subp. 19. [See repealer.]

23.24 [For text of subp 20, see M.R.]

23.25 **3400.0170 DETERMINATION OF INCOME ELIGIBILITY FOR CHILD CARE**  
23.26 **ASSISTANCE.**

24.1 [For text of subps 1 to 3, see M.R.]

24.2 Subp. 4. **Determination of annual income.** The income standard for determining  
24.3 eligibility for child care assistance is annual income. Annual income is the sum of earned  
24.4 income, self-employment income, unearned income, and lump sum payments, which  
24.5 must be treated according to subpart 13. Negative self-employment income must be  
24.6 included in the determination of annual income, resulting in a reduction in total annual  
24.7 income. Earned income, self-employment income, unearned income, and lump sum  
24.8 payments must be calculated separately.

24.9 Subp. 5. **Earned income of wage and salary employees.** Earned income  
24.10 means earned income from employment before mandatory and voluntary payroll  
24.11 deductions. Earned income includes, but is not limited to, salaries, wages, tips, gratuities,  
24.12 commissions, incentive payments from work or training programs, payments made  
24.13 by an employer for regularly accrued vacation or sick leave, payment for jury duty,  
24.14 and profits from other activity earned by an individual's effort or labor. Earned income  
24.15 includes uniform, mileage, and meal allowances if federal income tax is deducted from the  
24.16 allowance. Earned income includes flexible work benefits received from an employer if  
24.17 the employee has the option of receiving the benefit or benefits in cash. Earned income  
24.18 received by persons employed on a contractual basis must be prorated over the period  
24.19 covered by the contract even when payments are received over a lesser period of time.  
24.20 When housing is provided as part of the total work compensation, the fair market value of  
24.21 such housing shall be considered as if it were paid in cash.

24.22 Subp. 6. **Excluded income.** The administering agency shall exclude items A to  
24.23 H from annual income:

24.24 [For text of items A to H, see M.R.]



24.25 Subp. 6a. **Deductions from income.** The following items must be deducted from  
24.26 annual income:

25.1 [For text of items A and B, see M.R.]

25.2 Subp. 7. **Earned income from self-employment.** In determining annual income for  
25.3 purposes of eligibility under this part, the administering agency shall determine earned  
25.4 income from self-employment. Earned income from self-employment is the difference  
25.5 between gross receipts and authorized self-employment expenses which may not include  
25.6 expenses under subpart 8. Self-employment business records must be kept separate from  
25.7 the family's personal records. If the person's business is a partnership or a corporation and  
25.8 that person is drawing a salary, the salary shall be treated as earned income under subpart 5.

25.9 Subp. 8. **Self-employment deductions which are not allowed.** In determining  
25.10 eligibility under this part, self-employment expenses must be subtracted from gross  
25.11 receipts. For purposes of this subpart, the document in items I to K is incorporated by  
25.12 reference. It is available through the Minitex interlibrary loan system. It is subject to  
25.13 frequent change. If the document in items I to K is amended, and if the amendments are  
25.14 incorporated by reference or otherwise made a part of state or federal law applicable to  
25.15 self-employment deductions, then the amendments to the document are also incorporated  
25.16 by reference into this subpart. However, the expenses listed in items A to P shall not be  
25.17 subtracted from gross receipts:

25.18 [For text of items A to H, see M.R.]

25.19 I. monthly expenses for each roomer greater than the flat rate deduction listed in  
25.20 the current Combined Program Manual issued by the Department of Human Services;

25.21 J. monthly expenses for each boarder greater than the flat rate deduction listed  
25.22 in the current Combined Program Manual issued by the Department of Human Services;

25.23 K. monthly expenses for each roomer-boarder greater than the flat rate  
25.24 deduction listed in the current Combined Program Manual issued by the Department  
25.25 of Human Services;

26.1 [For text of items L to P, see M.R.]

26.2 [For text of subps 9 to 11, see M.R.]

26.3 Subp. 12. **Determination of unearned income.** Unearned income includes, but  
26.4 is not limited to, the cash portion of MFIP or DWP; adoption assistance received  
26.5 under Minnesota Statutes, section 259.67; relative custody assistance received under  
26.6 Minnesota Statutes, section 257.85; interest; dividends; unemployment compensation;  
26.7 disability insurance payments; veteran benefits; pension payments; child support and  
26.8 spousal support received or anticipated to be received by a family including child support  
26.9 and maintenance distributed to the family under Minnesota Statutes, section 256.741,  
26.10 subdivision 15; insurance payments or settlements; retirement; survivor's and disability  
26.11 insurance (RSDI) payment; and severance payments. Expenditures necessary to secure  
26.12 payment of unearned income are deducted from unearned income. Payments for illness  
26.13 or disability, except for those payments described as earned income in subpart 5, are  
26.14 considered unearned income whether the premium payments are made wholly or in part  
26.15 by an employer or by a recipient.

26.16 Subp. 13. **Treatment of lump sum payments.** Lump sum payments received by  
26.17 a family must be considered earned income under subparts 7 to 11 or unearned income  
26.18 according to subpart 12. Nonrecurring lump sums that are earmarked and used for the  
26.19 purpose for which they are paid are not to be included in the determination of income. All  
26.20 other lump sums are to be annualized over 12 months. The sale of property including,  
26.21 but not limited to, a residence is not considered income up to the amount of the original  
26.22 purchase price plus improvements.

26.23 **3400.0180 REDETERMINATION OF ELIGIBILITY.**

26.24 A. The county must redetermine each participating family's eligibility at least  
26.25 every six months. The county must redetermine the eligibility of families in the start-up  
26.26 phase of self-employment without an approved employment plan more frequently than  
27.1 once every six months if existing documentation is insufficient to accurately predict  
27.2 self-employment income. If a family reports a change in an eligibility factor before the  
27.3 family's next regularly scheduled redetermination, the county must recalculate eligibility  
27.4 without requiring verification of any eligibility factor that did not change.

27.5 [For text of item B, see M.R.]

27.6 C. If redetermination establishes that a family is ineligible for further child  
27.7 care assistance, the county shall terminate the child care assistance as provided in part  
27.8 3400.0185. If redetermination establishes the need for a change in the family's copayment,  
27.9 revisions shall be calculated according to part 3400.0100. When a change in income  
27.10 affects the amount of a participant's copayment, the new copayment amount is effective on  
27.11 the first day of the service period following the 15-day notice period.

27.12 D. If a family timely reports the information required by part 3400.0040,  
27.13 subpart 4, and redetermination establishes a need for a change in the amount of the family's  
27.14 child care assistance, the amount of child care assistance paid to the family between the  
27.15 date the change was reported and the first date that the new child care assistance payment  
27.16 would be effective if the county properly implemented the change does not constitute an  
27.17 overpayment.

27.18 **3400.0183 TERMINATION OF CHILD CARE ASSISTANCE.**

27.19 Subpart 1. **Conditions under which termination of child care assistance is**  
27.20 **allowed.**

27.21 A. A county may terminate child care assistance for families already receiving  
27.22 assistance when the county receives: (1) a revised allocation from the child care fund that  
27.23 is smaller than the allocation stated in the notice sent to the county under part 3400.0030;  
27.24 and (2) such short notice of a change in its allocation that the county could not have  
27.25 absorbed the difference in the allocation. The county must consult with and obtain  
27.26 approval from the commissioner before terminating assistance under this subpart.

28.1 [For text of item B, see M.R.]

28.2 [For text of subp 2, see M.R.]

28.3 Subp. 3. [See repealer.]

28.4 Subp. 4. [See repealer.]

28.5 Subp. 5. **Effective date of disqualification period.** The effective date of a  
28.6 disqualification period is the later of:

28.7 [For text of items A and B, see M.R.]

28.8 **3400.0185 NOTICE REQUIREMENTS FOR TERMINATION AND ADVERSE**  
28.9 **ACTIONS.**

28.10 [For text of subp 1, see M.R.]

28.11 Subpart 1. **Notice of termination of child care assistance to participants.**

28.12 [For text of item A, see M.R.]

28.13 B. If child care assistance under part 3400.0060 is being terminated because  
28.14 a participant has moved to another county, the notice also must state that to continue  
28.15 receiving child care assistance under part 3400.0060 from the new county, the participant  
28.16 must apply for child care assistance in the new county within ~~30~~ 60 days of the move.

28.17 [For text of items C and D, see M.R.]

28.18 Subp. 2. **Notice of termination of child care assistance to providers.**

28.19 [For text of item A, see M.R.]

28.20 B. When a family stops using a provider but continues to receive assistance, the  
28.21 county must send the provider a notice containing the following information:

28.22 (1) the family's name;

28.23 (2) that the family has decided to stop using that provider;

29.1 (3) the effective date that child care assistance payments will end; and

29.2 (4) that child care payments will no longer be made effective on the date  
29.3 of termination.

29.4 C. This item applies to participants using a provider licensed by the state of  
29.5 Minnesota. Except in cases where the provider's license has been temporarily immediately  
29.6 suspended under Minnesota Statutes, section 245A.07, the county must mail the notice to  
29.7 the participant at least 15 calendar days before ~~termination~~ terminating payment to the  
29.8 provider. When the provider's license has been temporarily immediately suspended under  
29.9 Minnesota Statutes, section 245A.07, the county must send a notice of termination to the  
29.10 provider that is effective on the date of the temporary immediate suspension.

29.11 D. This item applies to participants using a legal nonlicensed provider, license  
29.12 exempt center, or provider licensed by an entity other than the state of Minnesota. Except  
29.13 in cases where there is an imminent risk of harm to the health, safety, or rights of a child  
29.14 in care, the county must mail the notice to the provider at least 15 calendar days before  
29.15 terminating payment to the provider. In cases where there is an imminent risk of harm to  
29.16 the health, safety, or rights of a child in care, the county must send a notice of termination  
29.17 that is effective on the date of the notice. Whether there is an imminent risk of harm is  
29.18 determined by the county that authorized the provider for the family.

29.19 [For text of subp 3, see M.R.]

29.20 Subp. 4. **Notice to providers of actions adverse to families.** The county must give  
29.21 a provider written notice of the following actions adverse to families: a reduction in the  
29.22 hours of authorized care and an increase in the family's copayment. The notice must  
29.23 include only the following information:

29.24 [For text of items A to D, see M.R.]

30.1 Subp. 5. **Notice to providers of actions adverse to the provider.** The county must  
30.2 give a provider written notice of the following actions adverse to the provider: a denial of  
30.3 authorization, a termination of authorization, a reduction in the number of hours of care  
30.4 with that provider, and a determination that the provider has an overpayment. The notice  
30.5 must include the following information:

30.6 A. a description of the adverse action;

30.7 B. the effective date of the adverse action; and

30.8 C. a statement that unless a family appeals the adverse action before the  
30.9 effective date or the provider appeals the overpayment determination, the adverse action  
30.10 will occur on the effective date. The notice must be mailed to the provider at least 15  
30.11 calendar days before the effective date of the adverse action.

30.12 **3400.0187 RECOUPMENT AND RECOVERY OF OVERPAYMENTS.**

30.13 Subpart 1. **State recovery of overpayments.** The commissioner must recover from  
30.14 counties any state or federal money that was spent for persons found to be ineligible  
30.15 for child care assistance, except as provided in Minnesota Statutes, section 119B.11,  
30.16 subdivision 3.

30.17 Subp. 1a. [See repealer.]

30.18 Subp. 2. **Notice of overpayment.** The county must notify the person or persons  
30.19 assigned responsibility for the overpayment of the overpayment in writing. A notice of  
30.20 overpayment must specify the reason for the overpayment, the time period in which

30.21 the overpayment occurred, the amount of the overpayment, and the right to appeal the  
30.22 county's overpayment determination.

30.23 [For text of subp 3, see M.R.]

30.24 Subp. 4. **Recoupment of overpayments from participants.** If the redetermination  
30.25 of eligibility indicates the family remains eligible for child care assistance, the county  
31.1 must recoup the overpayment by reducing the amount of assistance paid to or on behalf of  
31.2 the family for every service period at the rates in item A, B, C, or D until the overpayment  
31.3 debt is retired.

31.4 A. When a family has an overpayment due to agency or provider error, the  
31.5 recoupment amount is one-fourth the family's copayment or \$10, whichever is greater.

31.6 B. When the family has an overpayment due to the family's first failure to report  
31.7 changes as required by part 3400.0040, subpart 4, the recoupment amount is one-half the  
31.8 family's copayment or \$10, whichever is greater.

31.9 C. When a family has an overpayment due to the family's failure to provide  
31.10 accurate information at the time of application or redetermination or the family's second  
31.11 or subsequent failure to report changes as required by part 3400.0040, subpart 4, the  
31.12 recoupment amount is one-half the family's copayment or \$50, whichever is greater.

31.13 D. When a family has an overpayment due to a violation of Minnesota Statutes,  
31.14 section 256.98, subdivision 1, as established by a court conviction, a court-ordered stay  
31.15 of conviction with probationary or other terms, a disqualification agreement, a pretrial  
31.16 diversion, or an administrative disqualification hearing or waiver, the recoupment amount  
31.17 equals the greater of:

31.18 (1) the family's copayment;

31.19 (2) ten percent of the overpayment; or

31.20 (3) \$100.

31.21 [For text of item E, see M.R.]

31.22 F. If a family has more than one overpayment, the overpayments must not  
31.23 be consolidated into one overpayment. Instead, each overpayment must be recouped  
31.24 according to the schedule specified in this subpart from the child care benefit paid for the  
31.25 service period. If the amount to be recouped in a service period exceeds the child care  
32.1 benefit paid for that service period, the amount recouped must be applied to overpayments  
32.2 in the following order:

32.3 (1) payment must first be applied to the oldest overpayment being recouped  
32.4 under item D and then to any other overpayments to be recouped under this item according  
32.5 to the age of the claim;

32.6 (2) payment then must be applied to the oldest overpayment being recouped  
32.7 under item C and then to any other overpayments to be recouped under this item according  
32.8 to the age of the claim;

32.9 (3) payment then must be applied to the oldest overpayment being recouped  
32.10 under item B and then to any other overpayments to be recouped under this item according  
32.11 to the age of the claim; and

32.12 (4) payment then must be applied to the oldest overpayment being recouped  
32.13 under item A and then to any other overpayments to be recouped under this item according  
32.14 to the age of the claim.

32.15 Subp. 5. [See repealer.]

32.16 Subp. 6. **Recoupment of overpayments from providers.** If the provider continues  
32.17 to receive child care assistance payments, the county must recoup the overpayment by  
32.18 reducing the amount of assistance paid to the provider for every payment at the rates in  
32.19 item A, B, or C until the overpayment debt is retired.



32.20           A. When a provider has an overpayment due to agency or family error, the  
32.21           recoupment amount is one-tenth the provider's payment or \$20, whichever is greater.

32.22           B. When a provider has an overpayment due to the provider's failure to provide  
32.23           accurate information, the recoupment amount is one-fourth the provider's payment or  
32.24           \$50, whichever is greater.

33.1           C. When a provider has an overpayment due to a violation of Minnesota  
33.2           Statutes, section 256.98, subdivision 1, as established by a court conviction, a  
33.3           court-ordered stay of conviction with probationary or other terms, a disqualification  
33.4           agreement, a pretrial diversion, or an administrative disqualification hearing or waiver, the  
33.5           recoupment amount equals the greater of:

33.6                   (1) one-half the provider's payment;

33.7                   (2) ten percent of the overpayment; or

33.8                   (3) \$100.

33.9           D. This item applies to providers who have been disqualified from or are  
33.10           no longer able to be authorized by the child care assistance program and who have  
33.11           outstanding overpayments. If a provider returns to the child care assistance program as  
33.12           a provider or a participant, the county must begin recouping the provider's outstanding  
33.13           overpayment using the recoupment schedule in items A to D unless another repayment  
33.14           schedule has been specified in a court order.

33.15           E. If a provider has more than one overpayment, the overpayments must not  
33.16           be consolidated into one overpayment. Instead, each overpayment must be recouped  
33.17           according to the schedule specified in this subpart from the payment made to the provider  
33.18           for the service period. If the amount to be recouped in a service period exceeds the  
33.19           payment to the provider for that service period, the amount recouped must be applied  
33.20           to overpayments in the following order:

33.21 (1) payment must first be applied to the oldest overpayment being recouped  
33.22 under item C and then to any other overpayments to be recouped under this item according  
33.23 to the age of the claim;

34.1 (2) payment then must be applied to the oldest overpayment being recouped  
34.2 under item B and then to any other overpayments to be recouped under this item according  
34.3 to the age of the claim; and

34.4 (3) payment then must be applied to the oldest overpayment being recouped  
34.5 under item A and then to any other overpayments to be recouped under this item according  
34.6 to the age of the claim.

34.7 **3400.0200 PAYMENTS TO COUNTIES OF ADMINISTRATIVE FUNDS.**

34.8 The commissioner shall make administrative funds payments to the counties on a  
34.9 monthly basis. The commissioner may certify an advance to the counties for the first  
34.10 quarter of the fiscal year or the first quarter of the allocation period. Subsequent payments  
34.11 made to the counties for administrative expenses shall be based on actual expenditures  
34.12 as reported by the counties in the financial and program activity report required under  
34.13 part 3400.0140, subpart 14.

34.14 **3400.0230 RIGHT TO FAIR HEARING.**

34.15 Subpart 1. [See repealer.]

34.16 Subp. 2. [See repealer.]

34.17 Subp. 3. **Child care payments when fair hearing is requested.**

34.18 [For text of item A, see M.R.]

34.19 B. If the commissioner finds on appeal that child care assistance should have  
34.20 been terminated or the amount of benefits reduced, the county must send a notice of  
34.21 termination or reduction in benefits effective the date of the notice to the family and  
34.22 the child care provider.

34.23 [For text of item C, see M.R.]

34.24 **3400.0235 AT-HOME INFANT CHILD CARE PROGRAM.**

35.1 Subpart 1. **Purpose and applicability.** This part governs the administration of the  
35.2 at-home infant child care program. All provisions in parts 3400.0010 to 3400.0230 apply  
35.3 to the at-home infant child care program unless otherwise specified in this part or in  
35.4 Minnesota Statutes, section 119B.035.

35.5 Subp. 2. **Administration of at-home infant child care program.** Within the limits  
35.6 of available funding the commissioner shall make payments for expenditures under the  
35.7 at-home infant child care program. Participation in the statewide pool shall be determined  
35.8 based on the order in which requests are received from counties. Following the birth or  
35.9 arrival of an infant, counties shall submit family requests for participation in the at-home  
35.10 infant child care program on forms provided by the commissioner. The commissioner  
35.11 shall respond within seven days to county inquiries about the availability of funds. The  
35.12 commissioner shall monitor the use of the pool and if the available funding is obligated,  
35.13 the commissioner shall create a waiting list of at-home infant child care referrals from the  
35.14 counties. As funds become available to the pool, the commissioner shall notify counties in  
35.15 which eligible families on the waiting list reside.

35.16 Subp. 3. **General eligibility requirements.** Items A to E govern eligibility for the  
35.17 at-home infant child care program.

35.18 A. A family is eligible to receive assistance under the at-home infant child  
35.19 care program if one parent provides full-time care for the infant. The eligible parent  
35.20 must meet the requirements of Minnesota Statutes, section 119B.035, subdivision 3.  
35.21 The requirements of caring for the infant full-time may be met by one or both parents.  
35.22 For purposes of this part, eligible parents include birth parents, adoptive parents, and  
35.23 stepparents. Nonfamily members may provide regular care for the child but are limited to  
35.24 a maximum of ten hours of care per week.

35.25           B. A family may apply for the at-home infant child care program before the  
35.26 child is born or anytime during the infant's first year. The family must apply before the  
36.1 end of the infant's first year to receive an at-home infant child care subsidy. Following  
36.2 the birth of a child, a family is eligible to receive a subsidy under the at-home infant  
36.3 child care program according to the date of eligibility in Minnesota Statutes, section  
36.4 119B.09, subdivision 7, and when funding is available. A family shall only receive  
36.5 subsidy payments through the infant's twelfth month. "Infant" means a child from birth  
36.6 through 12 months of age and includes adopted infants.

36.7           C. A family is limited to a lifetime total of 12 months of at-home infant  
36.8 child care assistance. At the time of application to the program, the parent or parents  
36.9 must declare whether they have previously participated in the at-home infant child care  
36.10 program. If the parent or parents declare that they have participated in the at-home infant  
36.11 child care program, the commissioner shall, at the request of the county, inform the county  
36.12 of the remaining months of eligibility for the at-home infant child care program.

36.13           D. At the time of application to the at-home infant child care program, the  
36.14 family must meet the eligibility requirements in Minnesota Statutes, section 119B.035,  
36.15 subdivision 2, and be income-eligible based on these activities. At the time of application  
36.16 to the at-home infant child care program, a family who is not currently participating in  
36.17 the basic sliding fee program must provide verification of participation in an authorized  
36.18 activity within the nine months before the birth or expected arrival of the child.

36.19           E. During the period a family receives a subsidy under the at-home infant child  
36.20 care program, the family is not eligible to receive basic sliding fee child care assistance for  
36.21 the infant or any other child in the family.

36.22           Subp. 4. **Continued eligibility under basic sliding fee program.** If families exiting  
36.23 the at-home infant child care program request continued child care assistance and meet all

36.24 eligibility factors for the basic sliding fee program, the provisions in Minnesota Statutes,  
36.25 section 119B.035, subdivision 4, paragraph (c), apply.

37.1 Subp. 5. **Assistance payments.** Items A to C govern assistance payments under the  
37.2 at-home infant child care program.

37.3 A. The number of months of at-home infant child care participation used shall  
37.4 be credited to the eligible parents. If an eligible parent later forms a new family, the  
37.5 number of months of at-home infant child care subsidy received shall be subtracted from  
37.6 the maximum assistance available under this part.

37.7 B. There is no additional subsidy for infants with special needs or for multiple  
37.8 births. The county must subtract the family's copayment required by Minnesota Statutes,  
37.9 section 119B.12, to determine the final at-home infant child care subsidy for the family.

37.10 [For text of item C, see M.R.]

37.11 D. For purposes of counting the number of months that a family has participated  
37.12 in the at-home infant child care program, any portion of a month in which a family  
37.13 receives a subsidy under the at-home infant child care program is considered a full month  
37.14 of participation in the at-home infant child care program.

37.15 For purposes of calculating the at-home infant child care program copayment and  
37.16 subsidy in the first service period, the county shall use the method described in part  
37.17 3400.0100. In addition, the county shall prorate the subsidy received in the first and last  
37.18 service period of participation according to subitems (1) to (4).

37.19 (1) If the family participates in the at-home infant child care program  
37.20 during the service period in which the infant is born or arrives in the home, the subsidy  
37.21 must be prorated to cover the number of calendar days from the date of birth or arrival  
37.22 until the end of the service period.

37.23 (2) If the family participates in the at-home infant child care program  
37.24 during the service period of the infant's first birthday, the subsidy must be prorated to  
37.25 cover the number of calendar days from the beginning of the service period to the date of  
37.26 the infant's first birthday.

38.1 (3) If the eligible parent leaves employment or another authorized activity  
38.2 in order to participate in the at-home infant child care program, the subsidy must be  
38.3 prorated to cover the number of calendar days from the date the eligible parent leaves the  
38.4 authorized activity to the end of the service period.

38.5 (4) If the eligible parent returns to an authorized activity and will no longer  
38.6 be participating in the at-home infant child care program, the subsidy must be prorated to  
38.7 cover the number of calendar days from the beginning of the service period to the date  
38.8 the parent returns to the authorized activity. If all other eligibility conditions are met, the  
38.9 family shall be eligible to receive basic sliding fee child care assistance beginning on the  
38.10 day the eligible parent returns to the authorized activity.

38.11 Subp. 6. **County responsibilities.** Items A to C govern county responsibilities  
38.12 for the program.

38.13 A. In addition to duties required under parts 3400.0140 and 3400.0160, counties  
38.14 shall perform the following functions to administer the at-home infant child care program:

38.15 [For text of subitems (1) to (5), see M.R.]

38.16 (6) notify the commissioner when a family's participation in the at-home  
38.17 infant child care program ends.

38.18 B. During program participation, the county shall apply billing procedures  
38.19 established under Minnesota Statutes, chapter 119B, to issue the at-home infant child  
38.20 care subsidy to families.

38.21 [For text of item C, see M.R.]

38.22 Subp. 7. [See repealer.]

38.23 **REPEALER.** Minnesota Rules, parts 3400.0020, subpart 32a; ~~3400.0080, subpart 1;~~

38.24 3400.0090, subpart 7; 3400.0110, subpart 4; 3400.0120, subpart 1b; 3400.0140, subparts

39.1 5a and 19; 3400.0183, subparts 3 and 4; 3400.0187, subparts 1a and 5; 3400.0210;

39.2 3400.0230, subparts 1 and 2; and 3400.0235, subpart 7, are repealed.